IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

W.P. No.277 OF 2002

PETITIONERS
(RESPONDENTS)

1. State of Chhattisgarh through the Secretary, Ministry of Home, Chhattisgarh, Raipur (Chhattisgarh)
2. Director General of Police, Raipur (Chhattisgarh)
3. Dy. Inspector General of Police, Raipur Region, Raipur (Chhattisgarh)
4. Supdt. Of Police, Durg (Chhattisgarh)

P. R. No. 2775
Presented by Shri ...
dated ...

VERSUS

RESPONDENT
(APPLICANT)

1. Iqbal Khan, aged about 43 years, S/o Ahmed Hussain, Caste Muslim, resident of Road No.4, Kasaridihi, District Durg (Chhattisgarh) [terminated Head Constable No.482 from Police Lines, Durg (Chhattisgarh)]

PROFORMA RESPONDENT

2. Registrar, Madhya Pradesh State Administrative Tribunal, Raipur Bench, Raipur (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

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आदेश पत्रक

मामला क्रमांक WP 277/2002 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

30-4-2002

DIVISION BENCH COMPRISING OF HON'BLE SHRI JUSTICE K.H.N. KURANGA, CJ & HON'BLE SHRI JUSTICE FAKHRUDDIN, J

Dr. N.K. Shukla, Addl. Advocate General, for the State / petitioners.

Heard.

The State has preferred this petition against the order dated 9-7-2001 passed in O.A. No. 1072/2000 by the M.P. State Administrative Tribunal, Raipur Bench, Raipur on the ground that the Tribunal was not justified in directing the respondent No.1 to reinstate the services of respondent No.1 from the date of dismissal and pay the entire arrears of the salary from the date of dismissal.

Briefly stated the facts of the case are that on 2-11-1996 respondent No.1 had tried to outrage the modesty of one Devki Bai, sister of constable Prem Singh. The report of the incident was lodged at police station Durg on the same day. A criminal case bearing No.74/1999 was registered against the respondent No.1 in the Court of Judicial Magistrate First Class Durg and charge sheet was filed under Sections 443 & 354 of I.P.C. but the charge

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (2)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

under Section 354 IPC was framed against the respondent No.1 by the competent Court and ultimately after trial, the respondent No.1 was acquitted. During the pendency of the proceedings in the Court of Judicial Magistrate Ist Class Durg, Departmental Enquiry was initiated against the respondent No.1 and his services were terminated.

After the acquittal of respondent No.1, the respondent No.1 prayed for his reinstatement but no action was communicated to him, hence he submitted a representation along with the copy of the order of acquittal on 31-1-1998. The reply was sent to the respondent No.1 and he was intimated that his appeal and the mercy petition have been rejected. Respondent No.1 was intimated by the Inspector General of Raipur Range that it is not possible for him to decide the application filed by respondent No.1 and respondent No.1 may file a mercy petition before the Director General of Police. Respondent No.1 filed mercy petition before the IG of Raipur but no action has been taken. Then respondent No.1 filed an application before the M.P. State Administrative Tribunal, Bench at Raipur, which was

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (3)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

registered as O.A. No.1072/2000 claiming relief that the termination order dated 16-10-1997 be quashed and he be reinstated in service. The claim was denied by the State.

Learned counsel appearing for the State contended that the order passed by the Tribunal is not sustainable.

The Tribunal has noted the case of the rival parties, which is reflected from paragraphs 2 to 8 of the impugned order. The point for consideration before the Tribunal was whether the impugned order by virtue of which the services of the respondent No.1 have been terminated, is liable to be quashed. The Tribunal thereafter, noted the facts in paragraph 11 & 12 of its order, which read as under:

> 11. It is an undisputed fact that the applicant has been terminated in view of a departmental enquiry held against the applicant. It is pertinent to note that a departmental enquiry was held against the applicant with a charge that the applicant had outraged

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (5)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the modesty of Smt. Devki Bai, the sister of complainant Prem Singh. (Please see Annexure A-1) From perusal of Annexure A-2, it is clear that a criminal case was lodged against the applicant in the Court of Judicial Magistrate, First Class, Durg. The number of criminal case was 74/1999. From perusal of Annexure A-2, it is also clear that a charge-sheet/challan was filed against the applicant u/s 443 & 354 of IPC but charge u/s 354 was framed against the applicant by the competent Court and ultimately after trial, the applicant was acquitted by the competent Criminal Court. It is also pertinent to note that the charge framed by the Court was in the same incident for which the departmental enquiry against the applicant was held. A charge u/s 354 of IPC was framed	

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by the Crimina Court against the applicant for outraging the modesty of Smt. Devki Bai, so it is proved that the applicant has been terminated as result of the departmental enquiry or an act for which he has been acquitted by the competent criminal Court.

12. From perusal of the judgment of Judicial Magistrate Ist Class Durg, it is also clear that the applicant has not been acquitted on the ground of benefit of doubt but the acquittal of the applicant is clean acquittal. In Capt. M.Paul Anthony Vs Bharat Gold Mines Ltd. & another; AIR 1999 SC 1416, Hon'ble the Supreme Court has held that - Departmental proceedings and criminal case - Based on identical set of facts - Evidence in both proceedings common - Employee

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित (6)	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

acquitted in criminal case - said order of acquittal can conclude departmental proceedings- Order of dismissal already passed before decision of criminal case liable to be set aside. Hon'ble the Supreme Court in Babulal Vs State of Haryana & others; 1991 SCC (L&S) 488 has held that- Service terminated pursuance to criminal proceedings pending against the employee - after acquittal ordered by criminal Court he is entitled to be reinstated in service.

The Tribunal after considering the material submitted and the decision of the Apex Court in the case of *Capt. M.Paul Anthony Vs Bharat Gold Mines Ltd & another* reported in AIR 1999 S.C. 1416, has passed the impugned order directing the State to take back the respondent No.1 in service and reinstate him in services from the date of dismissal. The Tribunal has also directed the State to pay the entire arrears of salary to

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the respondent No.1 from the date of dismissal. The Tribunal has also considered the case of ***Babulal Vs State of Haryana and others*** reported in 1991 SCC (L&S) 488 wherein it has been held that service terminated pursuance to criminal proceedings pending against the employees- after acquittal ordered by Criminal Court, he is entitled to be reinstated in service.

Having heard the learned counsel for the petitioner and considered the judgment of the Apex Court in Capt. M. Paul Anthony (supra) and in Babulal (supra), we are of the opinion that no case for interference of this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India is made out. The petition fails and is accordingly dismissed.

Learned Additional Advocate General submitted that fifteen days time may be granted to comply with the order.

Time as prayed for is granted to the State to comply with the order of the Tribunal, which shall be reported to the Tribunal.

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	Subject to what has been stated above this petition is dismissed. c.c. Sd/- Chief Justice	Sd/- Fakhruddin Judge